California Credit Union League

Serving Credit Unions in California and Nevada

September 18, 2006

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex M)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: The Red Flags Rule, Project No. R611019

Dear Mr. Secretary:

On behalf of the California and Nevada Credit Union Leagues, I appreciate the opportunity to comment on the Federal Trade Commission's (FTC) proposed rule regarding the requirement that state-chartered credit unions implement a written Identity Theft Prevention Program incorporating "red flags" (i.e., patterns, practices, or activities that indicate the possible risk of identity theft). The California and Nevada Credit Union Leagues are the largest state trade associations for credit unions in the United States, serving the interests of more than 450 member credit unions and their 9 million members.

The Leagues support this joint proposed rulemaking initiated by the FTC, that National Credit Union Administration (NCUA), and the federal banking agencies. In 2005, Nevada and California were numbers two and three, respectively, on the FTC's list of states with the most identity theft victims. We are committed to providing credit unions and their members with education, training, information, and other critical tools necessary to combat this serious and ever-growing problem. Overall, we believe the proposed rule fairly promulgates the requirements stated in sections 114 and 315 of the FACT Act of 2003, and has the potential to make a significant contribution towards reducing identity theft for all consumers.

However, we feel that the significant amount of time needed to develop and implement an Identity Theft Prevention Program (Program)—as well as the requirements to train employees and conduct ongoing administrative duties related to the Program (e.g., detecting and evaluating new forms of identity theft, reporting to the board of directors)—should be recognized in the final rule. Even if we accept the estimate found in the proposal that each institution will need to devote 39 hours towards developing policies and procedures (which, according to many credit unions we surveyed, significantly underestimates the true amount of time needed), this represents a considerable challenge for many credit unions. As one of our credit unions put it, "I am not as concerned with the "hours" as the lead time (in which we try to find the 39 hours) we have to pull this one off." Accordingly, we recommend that the FTC and the other agencies require a compliance date no sooner than one year after issuance of the final rules.

We have similar concerns regarding the requirement that each credit union's Program must address new or changing methods of identity theft on a continuing basis (§681.2(d)(1)(i)(D)). Due to limited time and resources, many credit unions will find this requirement to be difficult to meet, as identity theft patterns—which are typically national or global in nature, not local—tend to evolve and spread quite rapidly. We feel the FTC, the NCUA, and the federal banking agencies are in a much better position than a local credit union to become aware of these types of evolving patterns of identity theft. Therefore, we believe this requirement should be removed. The three sources of relevant red flags remaining in the regulation would then be:

- Appendix A of the regulation;
- Applicable supervisory guidance (e.g., press releases, or other method of quick, direct communication developed by the FTC and the agencies); and
- Incidents of identity theft actually experienced by the credit union.

In closing, the California and Nevada Credit Union Leagues thank the FTC for the opportunity to express our views on the proposal. We support the agencies' actions to reduce the likelihood of identity theft for all consumers. Our recommendations are offered in order to allow state-chartered credit unions of all sizes and levels of expertise a fair opportunity to meet this goal.

Sincerely,

Bill Cheney
President/CEO
California and Nevada Credit Union Leagues

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